

BRIAN D. NETTER
Deputy Assistant Attorney General

LESLEY FARBY
Assistant Branch Director

VINITA B. ANDRAPALLIYAL
JAMES D. TODD, JR.
Trial Attorneys
United States Department of Justice
Civil Division, Federal Programs Branch
P.O. Box 868
Washington, DC 20530
Tel: (202) 305-0845
Fax: (202) 616-8470
E-mail: Vinita.b.andrapalliyal@usdoj.gov

JOHN P. RELMAN, *pro hac vice*
REED COLFAX, *pro hac vice*
GLENN SCHLACTUS Bar No. 208414
STEPHEN HAYES, *pro hac vice*
SARA PRATT, *pro hac vice*
ZACHARY BEST, *pro hac vice*
RELMAN COLFAX PLLC
1225 19th St. NW, Suite 600
Washington, D.C. 20036
Telephone: (202) 728-1888
Fax: (202) 728-0848
rcolfax@relmanlaw.com

Attorneys for all Plaintiffs

Attorneys for Defendants

SAMUEL SPITAL, *pro hac vice*
NAACP LEGAL DEFENSE &
EDUCATIONAL FUND, INC.

JULIA HOWARD-GIBBON Bar No. 321789
FAIR HOUSING ADVOCATES OF
NORTHERN CALIFORNIA

ALLISON M. ZIEVE, *pro hac vice*
PUBLIC CITIZEN LITIGATION GROUP

*Attorney for Plaintiff Fair Housing Advocates of
Northern California*

Attorneys for all Plaintiffs

MORGAN WILLIAMS, *pro hac vice*
NATIONAL FAIR HOUSING
ALLIANCE

Attorney for Plaintiff NFHA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

NATIONAL FAIR HOUSING ALLIANCE, *et al.*,

Plaintiffs,

v.

MARCIA L. FUDGE, *et al.*,
Defendants.

Case No. 4:20-cv-07388-JSW

**JOINT STATUS REPORT AND
REQUEST TO CONTINUE STAY**

In accordance with this Court's January 7, 2022, Order, ECF No. 74, the parties through their undersigned counsel of record file this status report and state the following:

1. In this lawsuit, Plaintiffs challenge Defendants' issuance of a final rule, *HUD's Implementation of the Fair Housing Act's Disparate Treatment Standard*, 85 Fed. Reg. 60288 (Sept. 24, 2020) ("2020 Rule"), under the Administrative Procedure Act, 5 U.S.C. §§ 701 *et seq.* See Compl., ECF No. 1.
 2. On October 25, 2020, the United States District Court for the District of Massachusetts stayed the effective date of the 2020 Rule. *Mass. Fair Hous. Ctr. v. United States Dep't of Hous. & Urban Dev.*, No. CV 20-11765-MGM, 2020 WL 6390143 (D. Mass. Oct. 25, 2020). On December 23, 2020, the Defendants filed a Notice of Appeal of that decision; however, on February 9, 2021, Defendants filed a motion to voluntarily dismiss their appeal and do not seek to lift the stay in the Massachusetts court during the pendency of that case.
 3. On January 26, 2021, President Biden issued a Presidential Memorandum that instructed that HUD shall also, as soon as practicable, take all steps necessary to examine the effects of the September 24, 2020, rule entitled "HUD's Implementation of the Fair Housing Act's Disparate Impact Standard" (codified at part 100 of title 24, Code of Federal Regulations), including the effect that amending the February 15, 2013, rule entitled "Implementation of the Fair Housing Act's Discriminatory Effects Standard" has had on HUD's statutory duty to ensure compliance with the Fair Housing Act. Based on that examination, the Secretary shall take any necessary steps, as appropriate and consistent with applicable law, to implement the Fair Housing Act's requirements that HUD administer its programs in a manner that affirmatively furthers fair housing and HUD's overall duty to administer the Act (42 U.S.C. 3608(a)) including by preventing practices with an unjustified discriminatory effect.
- Redressing Our Nation's and the Federal Government's History of Discriminatory Housing Practices and Policies, 86 FR 7487 (published Jan. 29, 2021).
4. In accordance with to the President's directive, HUD began actively examining the discriminatory effects rules.
 5. On June 25, 2021, HUD published a Notice of Proposed Rulemaking proposing to recodify the 2013 Discriminatory Effects Rule and soliciting comments. HUD, Reinstatement of HUD's Discriminatory Effects Standard, 86 Fed. Reg. 33,590 (Jun. 25, 2021). HUD

announced a 60-day comment period, *id.*, which concluded on August 24, 2021. The agency is still in the process of reviewing the more than 10,000 comments received.

6. In light of HUD's action with respect to the rule at issue in this case and to allow for the continuation of the inter-agency review process, the parties respectfully request a continuation of the stay in this case for 90 days, until July 11, 2022. The parties propose to file another status report on July 6, 2022, updating the Court on the status of the proposed rule and proposing any next steps as appropriate.

Dated: April 4, 2022

Respectfully submitted,

BRIAN D. NETTER
Deputy Assistant Attorney General

LESLEY FARBY
Assistant Branch Director

/s/ Vinita B. Andrapalliyal
VINITA B. ANDRAPALLIYAL
JAMES D. TODD, JR.
Trial Attorneys
United States Department of Justice
Civil Division, Federal Programs Branch
P.O. Box 868
Washington, DC 20530
Tel: (202) 305-0845
Fax: (202) 616-8470
E-mail: Vinita.b.andrapalliyal@usdoj.gov

Attorneys for Defendants

/s/ John P. Relman
JOHN P. RELMAN, *pro hac vice*
REED COLFAX, *pro hac vice*
GLENN SCHLACTUS Bar No. 208414
STEPHEN HAYES, *pro hac vice*
SARA PRATT, *pro hac vice*
ZACHARY BEST, *pro hac vice*
RELMAN COLFAX PLLC
1225 19th St. NW, Suite 600
Washington, D.C. 20036
Telephone: (202) 728-1888
Fax: (202) 728-0848
jrelman@relmanlaw.com
rcolfax@relmanlaw.com
gschlactus@relmanlaw.com

shayes@relmanlaw.com
spratt@relmanlaw.com
zbest@relmanlaw.com

Attorneys for all Plaintiffs

SAMUEL SPITAL, *pro hac vice*
NAACP LEGAL DEFENSE & EDUCATIONAL
FUND, INC.
40 Rector Street
5th Floor
New York, NY 10006
(202) 682-1300
sspital@naacpldf.org

Attorneys for all Plaintiffs

ALLISON M. ZIEVE, *pro hac vice*
PUBLIC CITIZEN LITIGATION GROUP
1600 20th St. NW
Washington, DC 20009
(202) 588-1000

Attorney for all Plaintiffs

MORGAN WILLIAMS, *pro hac vice*
NATIONAL FAIR HOUSING
ALLIANCE
1331 Pennsylvania Ave., NW, Suite 610
Washington, D.C. 20004
Telephone: (202) 898-1661
mwilliams@nationalfairhousing.org

*Attorney for Plaintiff National Fair Housing
Alliance*

JULIA HOWARD-GIBBON Bar No. 321789
FAIR HOUSING ADVOCATES OF
NORTHERN CALIFORNIA
1314 Lincoln Ave., Suite A
San Rafael, CA 94901
(415) 483-7516
julia@fairhousingnorcal.org

*Attorney for Plaintiff Fair Housing Advocates of
Northern California*

[PROPOSED] ORDER

PURSUANT TO THE PARTIES' JOINT REQUEST, and for good cause shown, this case is stayed for 90 days. The parties are ORDERED to file a joint status report on July 6, 2022.

IT IS SO ORDERED.

Dated: _____

JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE